

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES  
SEPTEMBER 22, 2021**

**ITEM 16**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE CORE WATER QUALITY REGULATORY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, 2200.4, 2200.5, 2200.6 AND 2200.7 OF THE CALIFORNIA CODE OF REGULATIONS.

**DISCUSSION**

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board, the funds from which are deposited in the Waste Discharge Permit Fund (WDPF). Water Code Section 13260 requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the state. Water Code Section 13260 further requires the State Water Board to adjust the annual fees each fiscal year to conform to the revenue levels set forth in the Budget Act. Staff review all WDPF programs' fees on an annual basis and hold several stakeholder meetings throughout the year that coincide with the various iterations of the Governor's Budget.

**Waste Discharge Permit Fund Budget Cost Drivers**

Attachment 1: WDPF Program Budget Detail shows the FY 2021-22 projected revenue based on the existing fee schedule, the budget for FY 2021-22, and the cost drivers, including staff cost, program adjustments, and budget change proposal (BCP) adjustments. As column G indicates, the WDPF will need to generate an additional estimated \$21.6 million in revenue to meet budgetary expenditures in FY 2021-22. This increase is mainly attributable to increased state operational costs, a return to full staff salaries (removal of furlough salary savings), a pay letter, projected revenue shortfalls and the carryover of prior year fee increase deferrals. For these reasons, staff is proposing to increase fees for all programs the full required amount to ensure revenue meets expenditures.

**Proposed Fee Schedule Changes**

**Waste Discharge Requirement (WDR)**

The WDR program budget for FY 2021-22 is \$41.7 million and projected revenue is \$35.7 million. The WDR program needs to generate an additional \$6.0 million in revenue to meet the FY 2021-22 budget which translates to an average 16.8 percent

increase to all WDR fee categories except for the Winery General Order fees that were adopted on July 6, 2021. All applicable surcharges will remain unchanged for FY 2021-22.

### **Land Disposal – Tipping and No Tipping**

The Land Disposal program budget for FY 2021-22 is \$14.9 million and projected revenue is \$14.3 million. The Land Disposal program needs to generate an additional \$624,000 in revenue to meet the FY 2021-22 budget which translates to an average 4.4 percent increase to all Land Disposal fee categories. All applicable surcharges will remain unchanged for FY 2021-22.

### **Water Quality Certification (WQC)**

The WQC program budget for FY 2021-22 is \$16.8 million and projected revenue is \$14.4 million. The WQC program needs to generate an additional \$2.4 million in revenue to meet the FY 2021-22 budget which translates to an average 17.0 percent increase to all WQC fee categories except Category (H) as described below. All applicable surcharges will remain unchanged for FY 2021-22.

- **Category (H)** – Staff is proposing to lower the annual fee from \$43.00 to \$40.00 per mile of overhead electrical lines identified as high risk or high threat based on updated project data.

### **NPDES Stormwater**

The NPDES Stormwater program budget for FY 2021-22 is \$40.3 million and projected revenue is \$34.2 million. The NPDES Stormwater program needs to generate an additional \$6.1 million in revenue to meet the FY 2021-22 budget which translates to an average 17.9 percent increase to all NPDES Stormwater fee categories. Staff is also proposing to make the following changes:

- **Construction** – In an effort to spread the fees more equitably among dischargers, staff is proposing to increase the total number of disturbed acres upon which the maximum fee is based from 150 acres to 200 acres.
- **No Exposure Certification (NEC)** – Staff is proposing to increase the application fee for NEC dischargers from \$150 to \$200 and reduce the annual fee from \$150 to \$75 to reflect the difference in staff workload associated with reviewing applications and ongoing annual workload.
- **Commercial, Industrial and Institutional (CII)** – Staff is proposing to incorporate this permit type into the existing Industrial fee category as the discharge is classified as a type of industrial discharge and the staff workload is similar to that of the Industrial General Permit and therefore, the current Industrial fee is appropriate.

### **NPDES Wastewater**

The NPDES Wastewater program budget for FY 2021-22 is \$40.3 million and projected revenue is \$36.1 million. The NPDES Wastewater program needs to generate an additional \$4.3 million in revenue to meet the FY 2021-22 budget which translates to an average 11.9 percent increase to all NPDES Wastewater fee categories. All applicable surcharges will remain unchanged for FY 2021-22.

- Staff is proposing to add a new fee of \$250 for discharges that require minimal or no treatment systems to meet limits and are authorized by the Regional Water Board to augment ambient streamflow conditions to support aquatic organisms during times of low streamflow where conditions threaten survival of aquatic organisms.

### **Confined Animal Facilities (CAF)**

The CAF program budget for FY 2021-22 is \$6.4 million and projected revenue is \$5.5 million. The CAF program needs to generate an additional \$853,000 in revenue to meet the FY 2021-22 budget which translates to an average 15.4 percent increase to all CAF fee categories. All applicable surcharges will remain unchanged for FY 2021-22.

### **Agricultural (Ag) Lands**

The Ag Lands program budget for FY 2021-22 is \$9.2 million and projected revenue is \$8.0 million. The Ag Lands program needs to generate an additional \$1.2 million in revenue to meet the FY 2021-22 budget which translates to an average 15.6 percent increase.

### **Cannabis Cultivation**

Staff is proposing the following change to the Cannabis Cultivation fee schedule to generate sufficient revenue to meet the FY 2021-22 budget:

- All Tier 1 and Tier 2 risk designations will be increased by a flat rate of \$90. This results in varied increases by tier and risk, but roughly corresponds to the increases required to bring fees closer to the associated staff workload:

	<b>Risk Designation</b>	<b>Current Annual Fee</b>	<b>Proposed Annual Fee</b>
<b>Tier 1</b>	Low	\$600	\$690
	Moderate	\$1,800	\$1,890
	High	\$4,800	\$4,890
<b>Tier 2</b>	Low	\$1,000	\$1,090
	Moderate	\$3,000	\$3,090
	High	\$8,000	\$8,090

- **Tier 2 – Per Acre Surcharge** – Staff is proposing to assess a per acre surcharge to reflect the associated staff workload as sites increase in size and implement a maximum surcharge cap of \$20,565 or 230 acres. In an attempt to be more

equitable, staff is also proposing to decrease the surcharge rate as the acres increase to reflect that staff will not be spending a proportional amount of time per acre as the site size increases:

Acres	Per Acre Surcharge
2 to 50	\$185
51 to 100	\$100
101+	\$50

- **Annual Fee for Conditionally Exempt Sites** – Staff is proposing to implement an annual fee for all conditionally exempt indoor sites based on the discharge method and a flat annual fee for all conditionally exempt outdoor sites. These dischargers currently pay only an application fee, which is insufficient to support ongoing staff workload.

Discharge Type	Application Fee	Annual Fee
Indoor – Waste Hauler	\$690	\$690
Indoor – Municipal Sewer	\$690	\$185
All Outdoor Sites	\$690	\$185

Staff is also proposing to increase the hourly rate in sections 2200(b)(2) and 2200.4 from \$150 to \$185 to be in line with the current average hourly rate.

## POLICY ISSUE

Should the State Water Board adopt a resolution amending the annual fee schedules as proposed by staff?

## FISCAL IMPACT

The FY 2021-22 Budget Act includes expenditure authority for the Waste Discharge Permit Fund of \$180.1 million. The proposed fee schedule changes will ensure the projected revenue for the WDPF meets the FY 2021-22 budget expenditures.

## REGIONAL BOARD IMPACT

The proposed fee schedule changes would require the Regional Water Boards to manage existing vacancies with no further staffing reduction.

## STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt emergency regulations to change the current annual fee schedules as proposed by staff.